

State of Maryland
(17a)
Reforestation Law
Department of Natural Resources, Title 5
Reforestation

§ 5-103. REFORESTATION

(a) **DEFINITIONS:** In this section the following words have the meanings indicated.

- (1) "Construction activity" means construction of a highway by a constructing agency.
- (2) "Constructing agency" means:
 - (i) A unit of State or local government; or
 - (ii) Any other person who uses State funding and performs any construction activity with the State funding.
- (3) "Forest" means:
 - (i) a biological community dominated by trees or other woody plants covering a land area of 1 acre or more, or
 - (ii) an area that has been cut but not cleared of trees or other woody plants.
- (4) "Forest mitigation banking" means the intentional restoration or creation of forests undertaken expressly for the purpose of providing credits for reforestation requirements with enhanced environmental benefits from future activities.
- (5) "Watershed" means all lands lying within an area described as a subbasin in water quality regulations adopted by the Department of the Environment.

(b) **GOVERNMENT TO MINIMIZE CUTTING OR CLEARING-** To accomplish a construction activity involving land clearing, a unit of State or local government or any other person using State funding for the construction project:

- (1) May cut or clear only the minimum number of trees and other woody plants that are necessary and consistent with sound design practices; and
- (2) Shall make every reasonable effort to minimize the cutting or clearing of trees and other woody plants.

(c) **WHEN REQUIRED-**

- (1) If the total area of forest cut or cleared in connection with a construction activity by a unit of State or local government or any other person using State funding for the construction project equals 1 acre or more, the constructing agency shall locate an equivalent area of State-owned or other publicly owned land to be reforested by the Department at a rate of 10 cents per square foot of the area of required planting.
- (2) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph, the reforestation projects shall be established on any public land within the county and watershed in which construction activity by a unit of State or local government has caused a loss of trees where the public entity that owns the land agrees to that use of the land.

(ii) If the reforestation project cannot be reasonably accomplished in the county and watershed in which the construction activity is located, then the reforestation shall occur in the county or watershed in the State in which the construction activity is located, or shall be accomplished by use of credits in a forest mitigation bank in the county and watershed in which the construction activity is located.

(iii) If the reforestation project cannot be reasonably accomplished in the county or watershed in which the construction activity is located, or by use of credits in the county and watershed in which the construction activity is located, then reforestation may occur by the use of credits in a forest mitigation bank in the county or watershed in which the construction activity is located.

(3) The constructing agency shall reimburse the Department for the reforestation activities at an appropriate rate of 10 cents per square foot of the area of required planting.

(4) Any land for a reforestation project shall be:

(i) If possible, on the site or in the project right-of-way being used for the construction activity;

(ii) If sufficient area is not available at the site or within the project right-of-way, on State-owned or other publicly owned land in the county and watershed in which the construction activity is located;

(iii) If the reforestation project cannot be reasonably accomplished in the county and watershed in which the construction activity is located, on State-owned or other publicly owned land in the county or watershed in the State in which the construction activity is located; or

(iv) If the reforestation project cannot be reasonably accomplished on State-owned or other publicly owned land in the county or watershed in the State in which the construction activity is located, accomplished through use of forest mitigation bank credits in the watershed in which the construction activity is located.

(d) REFORESTATION FUND

(1) If the constructing agency is unable to locate a sufficient amount of State or other publicly owned land or available forest mitigation bank credits to comply with the requirements of subsection (c) of this section, the constructing agency shall contribute money, at the rate of 10 cents per square foot of the area of required planting, to a special fund to be maintained in the Department and to be known as the Reforestation Fund.

(2) There is a Reforestation Fund in the Department.

(e) MANAGEMENT OF FUND

(1) Money deposited in the Reforestation Fund:

(i) Shall remain in the Fund until appropriated and spent; and

(ii) May not revert to the General Fund.

(2)

(i) 1. Except as provided in item 2 of this subparagraph, the Department shall use the Reforestation Fund solely to plant trees on State or other publicly owned lands located in the county and watershed in which construction projects giving rise to Fund contributions are located.

2. If reforestation cannot be reasonably accomplished in the county and watershed in which the construction activity is located, then the Department may use the Reforestation Fund to plant trees on State or other publicly owned lands located in the county or in the watershed in the State in which the construction activity is located, or to purchase credits in, establish, or maintain a forest mitigation bank in the county or watershed in which the construction activity is located in accordance with regulations of the Department. The Reforestation Fund may not

be used to finance administrative activities associated with a mitigation bank and any credits created by the Reforestation Fund may not be sold to compensate for additional forest impacts.

(ii) 1. The Department shall accomplish the reforestation for which money is deposited in the Reforestation Fund within 1 year or 2 growing seasons after project completion, as appropriate, after receipt of the money.

2. Money deposited in the Reforestation Fund under subsection (d) of this section shall remain in the Fund for a period of 1 year or 2 growing seasons, and at the end of that time period, any portion that is not used to meet the reforestation requirements shall be returned to the constructing agency.

(f) CONSULTATION WITH THE DEPARTMENT

(1) Any unit of State or local government that engages in construction activities involving land clearing on forest lands shall consult with the Department to assure compliance with this section:

- (i) Before cutting in or clearing a forest; and
- (ii) Before locating a reforestation area in accordance with this section.

(2) The provisions of this subsection shall also apply to any construction activity by any other person who uses State funding for that activity.

(g) EXCEPTION

The provisions of this section do not apply to any agricultural practice implemented under a soil and water conservation plan.

(h) ANNUAL REPORT

On or before July 1 of each year, the Department or local authority shall submit to the Senate Economic and Environmental Affairs Committee and the House Environmental Matters Committee a report on:

- (1) The number and location of each construction activity subject to the requirements of this section;
- (2) The amount and location of acres cleared, conserved, and planted in connection with the activity; and
- (3) The amount of reforestation fees collected and expended.
 - (i) Forest mitigation banking.- Forest mitigation banking under this section shall be conducted in accordance with standards adopted under Subtitle 16 of this title.

[1987, ch. 610; 1989, chs. 769, 819; 1991, ch. 255, § 2; 1997, ch. 559, §§ 1, 2.]

Annotations

Effect of amendments. Section 1, ch. 559, Acts 1997, effective Oct. 1, 1997, redesignated former (a) (5) to be present (a) (6). Section 2 of ch. 559, inserted present (a) (5); inserted "or (iii)" following "(ii)" in (c) (2) (i); added "or shall be accomplished by use of credits in a forest mitigation bank in the county and watershed in which the construction activity is located" to the end of (c) (2) (ii); added (c) (2) (iii); added (c) (4) (iv); inserted "or available forest mitigation bank credits" in (d) (1); in (e) (2) (i) 2, added the language beginning "or to purchase credits in" to the end of the first sentence and added the second sentence; and added (i).

Editor's note. Section 2, ch. 610, Acts 1987, effective July 1, 1987, provides that "this act applies to all construction activity involving land clearing by any unit of State government for which bids are let after January 1, 1988."